

--11. A substantially anhydrous ointment comprising acetylsalicylic acid and a base selected from the group consisting of vaseline and a mixture thereof, wherein said ointment does not contain a solubilizing agent for said acetylsalicylic acid.--

--12. The ointment of claim 11, wherein the solubilizing agent is an organic acid, an alcohol, a polyhydric alcohol, water or a surfactant.--

--13. The ointment of claim 1, wherein the solubilizing agent is an organic acid, an alcohol, a polyhydric alcohol, water or a surfactant.--

REMARKS

Status of the Claims

Claims 1-13 are pending in the present application. The basis for claim 4 is originally filed claim 3. The basis for claims 5 and 6 includes the description on page 3, lines 14-16 of the specification. The basis for claim 7 includes the description on page 3, lines 5-11 and page 4, lines 4-9 of the specification. The basis for claims 8-10 includes the description on page 3, lines 5-9 of the specification as well as Examples 1-6. Claim 11 is supported by original claim 1 and by the description on page 3, lines 5-11 and page 4, lines 4-9 of

the specification. The basis for claims 12 and 13 includes the description on page 3, lines 5-11 and page 4, lines 4-9 of the specification.

The Specification

The specification has been checked to determine the presence of possible minor errors.

Rejection of Claims 1-3 Under 35 U.S.C. 112

Claims 1-3 have been rejected by the Examiner under 35 U.S.C. 112, second paragraph, for the reasons set forth on page 1 of the Office Action. This rejection is respectfully traversed. Reconsideration and withdrawal thereof are requested.

The phrase "characterized in using" has been cancelled from the claims since it is generally not considered consistent with U.S. practice. However, the cancellation of this term in no way affects the scope of the claim.

The term "and/or" has been cancelled and substituted with the equivalent Markush style language, since the phrase "and/or" is often not considered consistent with U.S. practice. However, the cancellation of this term in no way affects the scope of the claim.

The phrase "Aspirin" has been cancelled and substituted with its chemical name. Again, however, the cancellation of this term in no way affects the scope of the claim.

In summary, the nature of the amendments to the claims in response to the rejection under 35 U.S.C. 112 should be considered as "house-keeping" type amendments which do not affect the scope of the claims. Therefore, the rejection of claims 1-3 under 35 U.S.C. 112, second paragraph, should be withdrawn by the Examiner.

Rejection of Claims 1-3 under 35 U.S.C. 102(b)

Claims 1-3 have been rejected by the Examiner under 35 U.S.C. 102(b) as being anticipated by JP 3-72426 or Tsuchiya et al for the reasons set forth in paragraph (3) of the Office Action. This rejection is respectfully traversed. Reconsideration and withdrawal thereof are requested.

The Present Invention

The present invention as recited in claim 1, as amended relates to a substantially anhydrous ointment consisting essentially of acetylsalicylic acid and a base selected from the group consisting of vaseline and a mixture thereof without any solubilizing agent for said acetylsalicylic acid.

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The present invention as recited in claim 11 relates to a substantially anhydrous ointment comprising acetylsalicylic acid and a base selected from the group consisting of vaseline and a mixture thereof, wherein the ointment does not contain a solubilizing agent for said acetylsalicylic acid.

The Examiner's position is that the cited art identically discloses each element of instant claims 1-3. Applicants respectfully disagree.

Rejection over JP 3-72426

JP 3-72426 discloses and claims an "ointment composition containing aspirin for therapy of neuralgia comprising ointment base containing as active substance 0.5-5% by weight of aspirin and 0.5-30% by weight of aspirin solubilizing agents." Thus, contrary to the present invention, JP 3-72426 requires solubilizing agents, which are excluded from the present claims.

Further, JP 3-72426 utilizes vaseline, plastibase, etc as the ointment base.

JP 3-72426 discloses stabilizing an aspirin ointment by the use of aspirin solubilizing agents such as diethyleneglycolmonoethyl ether, etc. Therefore, JP 3-72426 requires that it is essential to contain solubilizing agents in the ointment.

Contrary to the teachings of JP 3-72426, the present invention contains aspirin and at least one of vaseline or hydrocarbon gel and does not contain any solubilizing agent as required by JP 3-72426. Thus, the present invention is neither disclosed nor suggested by the teachings of the cited reference.

Accordingly, in view of the amendments to the claims and in view of the remarks hereinabove, the rejection of the claims over JP 3-72426 should be withdrawn by the Examiner.

Rejection Over Tsutiya et al.

The Tsutiya et al. reference discloses that the water content affects the stability of aspirin-ointment and that when polyoxyethylenehydrogenated castor oil 60 is used instead of glyceryl monostearate and when isopropanol is used instead of crotonol as the aspirin solvent, they are effective in stabilizing the aspirin ointment.

The Tsutiya et al. reference is completely silent with respect to the use of vaseline and/or hydrocarbon gel as a stabilizing agent for an aspirin ointment. Therefore, the Tsutiya et al. reference does not anticipate the present invention.

Accordingly, in view of the amendments to the claims and the remarks hereinabove, the rejection(s) of the claims under 35 U.S.C. 102(b) should be withdrawn by the Examiner.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) respectfully petition(s) for a one (1) month extension of time for filing a reply in connection with the present application, and the required fee of \$\$110.00 is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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